

ORDINANCE NO. 2009-26

AN ORDINANCE of the City of Wenatchee, Washington, creating the Local Revitalization Financing District – Wenatchee Waterfront; making certain findings relating thereto; and providing for other matters properly relating thereto.

THE CITY COUNCIL OF THE CITY OF WENATCHEE, WASHINGTON DOES ORDAIN as follows:

Section 1. Recitals. The City Council (the “Council”) of the City of Wenatchee, Washington (the “City”), hereby makes the following findings and determinations:

(a) The City is a code city duly incorporated and operating under the laws of the State of Washington. Second Substitute Senate Bill 5045 (Chapter 270, Laws of 2009) (the “Act”), which was enacted by the Washington State Legislature during its 2009 Regular Session, authorizes the City to create revitalization areas and use local revitalization financing to finance public improvements within such revitalization areas.

(b) The Public Improvements (as defined below) proposed to be financed in whole or in part using Local Revitalization Financing (as defined below) are expected to encourage private development within the Revitalization Area (as defined below) and to increase the fair market value of real property within the Revitalization Area. The private development that is anticipated to occur within the Revitalization Area as a result of the Public Improvements will be consistent with the countywide planning policy adopted by Chelan County (the “County”) under RCW 36.70A.210 and the City's comprehensive plan and development regulations adopted under chapter 36.70A RCW.

(c) The City has received a letter of intent from m:kov Real Estate Development Services, who is a private developer, relating to the developer's plans for the development of private improvements within the Revitalization Area.

(d) The City will not use Local Revitalization Financing to finance the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of public facilities funded with taxes collected under RCW 82.14.048 or 82.14.390.

(e) Public investment stimulates business activity and helps create jobs, stimulates the redevelopment of brownfields and blighted areas, lowers the cost of housing, and promotes efficient land use. These activities generate revenue for the State and the City. The public improvements proposed to be financed in whole or in part using local revitalization financing are expected to encourage private development within the revitalization area and to increase the fair market value of real property within the revitalization area. Local Revitalization Financing, as used by the City with respect to Public Improvements within the Revitalization Area, (i) will not be used for the purpose of relocating a business from outside the Revitalization Area, but within Washington State, into the Revitalization Area; (ii) will improve the viability of existing business entities within the Revitalization Area; and (iii) will be used exclusively in an area of the City deemed in need of

economic development and, absent the financing available under the Act, such economic development would more than likely not occur for the foreseeable future.

(f) The Public Improvements proposed to be financed using Local Revitalization Financing are reasonably likely to (i) increase private investment within the Revitalization Area (as reflected by the letter of intent mentioned in paragraph (c) of this Section), (ii) increase employment within the Revitalization Area (especially as the vacant property within the Revitalization Area is developed), and (iii) generate, over the 25-year period of time that the City will impose the LRF Tax (as defined below), increases in state and local property, sales, and use tax revenues that are equal to or greater than the respective state contribution made with respect to the Revitalization Area under Section 401 of the Act and the local contributions of property, sales, and use tax revenues made by the City, the Library District, and the Port of Chelan County (the "Port") pursuant to the Act with respect to the Revitalization Area.

(g) The City, the County, the Port, Wenatchee School District No. 246 (the "School District"), and North Central Regional Library District (the "Library District") [etc.] (collectively, the "Overlapping Taxing Districts") are the only "taxing districts" (as defined in Section 102(26) of the Act) with geographic boundaries within the Revitalization Area. The City, the County and the Port, the School District, and the Library District, (collectively, the "Overlapping Local Governments") are the only "local governments" (as defined in Section 102(5) of the Act) with geographic boundaries within the Revitalization Area. On July 24, 2009, the City provided notice to each of the Overlapping Taxing Districts and each of the Overlapping Local Governments of the City's intent to create the Revitalization Area with the information required by Sections 104(a) and 701(b) of the Act.

(h) Before the date hereof, the County indicated to the City that it did not intend to (i) allow the use of its property tax revenues for the proposed Local Revitalization Financing, and (ii) allow its Local Sales and Use Tax Increment (as defined below) or other Revenues from Local Public Sources (as defined below) for the proposed Local Revitalization Financing. Accordingly, the Board of County Commissioners adopted a resolution removing itself as a "participating taxing district" and "participating local government" (as such phrases are defined in Sections 102(12) and 102(11) of the Act, respectively), and notified the City of intent to be so removed, as required by Sections 106 and 107 of the Act.

(i) Before the date hereof, the Port indicated to the City that it intended to allow the use of its property tax revenues for the proposed Local Revitalization Financing or other Revenues from Local Public Sources for the proposed Local Revitalization Financing. Accordingly, the Port Commissioners did not adopt a resolution removing itself as a "participating taxing district" and "participating local government", as required by Sections 106 and 107 of the Act.

(j) Before the date hereof, the Library District indicated to the City that it intended to allow the use of its property tax revenues for the proposed Local Revitalization Financing. Accordingly, the Library District's Board of Trustees did not adopt a resolution removing itself as a "participating taxing district", as required by Section 106 of the Act.

(k) The School District's property tax revenues are not subject to use by the Local Revitalization Area. Accordingly, the School District's Board of Commissioners did not adopt a

resolution remove itself as a “participating taxing district” or notify the City of intent to be so removed, as required by Section 106 of the Act.

(l) The City scheduled a public hearing regarding the proposed financing of the Public Improvements with Local Revitalization Financing for August 27, 2009, at 5:15 p.m., in the Council Chambers. The City caused notice of the public hearing to be published in *The Wenatchee World*, a legal newspaper of general circulation within the Revitalization Area, on August 16, 2009, and posted in at least six conspicuous public places located in the Revitalization Area. Such notices contained the information required by Sections 104(b) and 701(b) of the Act. The Council conducted the public hearing at the time and place set forth in said notices, and considered testimony from members of the public regarding the proposed financing of the Public Improvements with Local Revitalization Financing.

(m) The Revitalization Area does not contain within its geographic boundaries any part of a “hospital benefit zone” created under chapter 39.100 RCW, any part of a “revenue development area” created under chapter 39.102 RCW, any part of an “increment area” created under chapter 39.89 RCW, or any part of another “revitalization area” created under the Act.

(n) The Revitalization Area is limited to contiguous tracts, lots, pieces, or parcels of land generally known as the “Local Revitalization Financing District – Wenatchee Waterfront” and does not have boundaries that create islands of property that are not included in the Revitalization Area. This area has a high likelihood of receiving direct positive business and economic impacts due to the Public Improvements. The Public Improvements will be located within the boundaries of the Revitalization Area. The City has not drawn the boundaries of the Revitalization Area to purposely exclude parcels where economic growth is unlikely to occur. Rather, the Revitalization Area is geographically restricted to the location of the Public Improvements and adjacent locations within the general neighborhood in which the Public Improvements are expected to be made. The total assessed value of the taxable real property within the City’s boundaries is currently \$1.45 billion. The Revitalization Area has a total assessed value of \$65 million and does not comprise an area containing more than 25% of the total assessed value of the taxable real property within the City.

Section 2. Definitions. The definitions in this Section apply throughout this ordinance unless the context clearly requires otherwise.

- (a) “Act” has the meaning set forth in Section 1(a) of this ordinance.
- (b) “City” has the meaning set forth in Section 1 of this ordinance.
- (c) “Council” has the meaning set forth in Section 1 of this ordinance.
- (d) “County” has the meaning set forth in Section 1(b) of this ordinance.
- (e) “School District” has the meaning set forth in Section 1(g) of this ordinance.
- (f) “Library District” has the meaning set forth in Section 1(g) of this ordinance.

(g) "Interlocal Agreement" means the Interlocal Cooperation Agreement between the City and the County relating to the use by the City of certain property tax revenues and sales and use tax revenues to finance the Public Improvements, and in substantially the form attached hereto as Exhibit B (which exhibit is incorporated herein by this reference).

(h) "Local Property Tax Allocation Revenues" has the meaning set forth in Section 102(6) of the Act.

(i) "Local Sales and Use Tax Increment" has the meaning set forth in Section 102(8) of the Act.

(j) "Local Revitalization Financing" means, collectively, (i) the use of Revenues from Local Public Sources to pay the principal and interest on LRF Bonds and Public Improvement Costs within the Revitalization Area on a pay-as-you-go basis, and (ii) revenues received from the LRF Tax dedicated to pay the principal and interest on LRF Bonds.

(k) "LRF Bonds" means general obligation bonds issued by the City pursuant to the authority granted by Section 701 of the Act.

(l) "LRF Tax" means the local sales and use tax to be imposed by the City under Section 601 of the Act if such tax is approved by the State of Washington Department of Revenue pursuant to Section 401 of the Act.

(m) "Port" has the meaning set forth in Section 1(f) of this ordinance.

(n) "Public Improvements" means the "public improvements" (within the meaning of Section 102(16) of the Act) more particularly described in Section 5 of this ordinance.

(o) "Public Improvement Costs" shall have the meaning, with respect to any of the Public Improvements, set forth in Section 102(15) of the Act.

(p) "Revenues from Local Public Sources" means, to the extent the same are dedicated for the payment of LRF Bonds or Public Improvement Costs within the Revitalization Area on a pay-as-you-go basis, (i) the local sales and use tax amounts received from the County under the Interlocal Agreement, (ii) the local sales and use tax amounts from the City based upon the City's Local Sales and Use Tax Increment with respect to the Revitalization Area, (iii) Local Property Tax Allocation Revenues with respect to the Revitalization Area dedicated by the City, the Port, the Library District and the School District, and (iv) any other local revenues, including revenues derived from federal and private sources. The phrase "Revenues from Local Public Sources" does not include any funds derived from grants, loans or any other money provided by the State of Washington.

(q) "Revitalization Area" means the Local Revitalization Financing District – Wenatchee Waterfront" created by Section 3 of this ordinance.

Section 3. Creation of the Revitalization Area. The City hereby creates and establishes a “revitalization area” within the meaning of the Act, to be designated as the “Local Revitalization Financing District – Wenatchee Waterfront.”

Section 4. Boundaries of the Revitalization Area. The Revitalization Area shall have the geographic boundaries described in Exhibit A hereto (which exhibit is incorporated herein by this reference).

Section 5. Description and Estimated Costs of the Proposed Public Improvements. The Public Improvements proposed to be made in the Revitalization Area, and the estimated Public Improvement Costs relating thereto, are:

1. Pybus Market redevelopment;
2. City’s former public works site remediation and boat moorage;
3. Waterfront gateway and Orondo Street improvements;
4. Parking lot improvements for Linden Tree park at Ninth and Walla Walla Avenues; and
5. Waste water treatment plant odor and visual mitigation.

The estimated cost of the above-described public improvements is \$17.5 million. The above-described public improvements may include the following:

(a) The construction and maintenance of publicly-owned streets, roads, bridges and rail facilities (such as curbs, striping, signage, traffic signals, traffic-calming devices, and utility sleeves);

(b) The construction and improvement of the City’s water and sewer systems including (but not limited to) (i) water mains, valves and fittings, (ii) domestic water service lines, (iii) fire service lines, (iii) fire hydrants, (iv) sanitary sewer interceptors (including pipe in diameters of up to 72 inches), (v) sanitary sewer mains, (vi) sanitary sewer service lines, (vi) sanitary sewer manholes, and (vii) booster pumps, provided fixtures and appurtenances required to connect private development to the City’s water and sewer systems shall not be considered “Public Improvements” hereunder;

(c) Sidewalks, streetlights, landscaping and streetscaping (including street furnishings installed along the sidewalk, such as benches, trash receptacles, bicycle racks and planter pots);

(d) Parking, terminal & dock facilities;

(e) Park facilities (including “pocket parks”), recreational areas, and environmental remediation of publicly-owned property;

(f) Storm water and drainage management systems that will be owned by the City, including (but not limited to) (i) storm sewer pipe, (ii) storm sewer manholes, (iii) storm water catch

basins, (iv) drywells, (v) drainage swales (including landscaping for such swales) and (vi) storm water treatment vaults and underground storage tanks;

(g) Environmental analysis, professional management, planning, and promotion within the Revitalization Area, including the management and promotion of retail trade activities in the Revitalization Area;

(h) Electric, gas, fiber, and other utility infrastructures; and

(i) Maintenance and security for common or public areas in the Revitalization Area.

Section 6. Duration of Local Revitalization Financing. The City estimates that the Local Property Tax Allocation Revenues with respect to the Revitalization Area will be used for Local Revitalization Financing commencing at the earliest on July 1, 2011, and ending on the date the bonds issued are retired or 25 years after the tax was imposed, whichever occurs first (provided, that any delinquent taxes collected after such date that were due on or before the termination date, shall be distributed to the City to the extent the tax revenue so collected is attributable to "property tax allocation revenue value" (as defined in Section 102(13) of the Act) with respect to the Revitalization Area). The City estimates that other Revenues from Local Public Sources will be used commencing on the earliest date such Revenues from Local Public Sources become available to the City and ending on the date the bonds issued are retired or 25 years after the tax was imposed, whichever occurs first.

Section 7. Use of Local Property Tax Allocation Revenues. The use of Local Property Tax Allocation Revenues with respect to the Revitalization Area will commence at the earliest on July 1, 2011. The following is a list of the taxing districts that have not adopted resolutions (as described in Section 106 of the Act) to be removed as a "participating taxing district": Chelan County Port District, the North Central Regional Library District; and the Wenatchee School District.

Section 8. Anticipated Rate of the LRF Tax. The City anticipates that it will impose the LRF Tax at the rate of 0.071% of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax).

Section 9. Anticipated Date for Meeting the LRF Tax Criteria. The City anticipates that it will meet the criteria for imposing the LRF Tax at the earliest on or before July 1, 2011, and that the City will impose the LRF Tax commencing at the earliest on July 1, 2011.

Section 10. Intent to Incur General Indebtedness. The City intends to incur general indebtedness in the maximum anticipated principal amount of \$14 million, and to issue general obligation bonds, to finance the Public Improvements. The City further intends to retire such indebtedness in whole or in part from Local Revitalization Financing it receives.

Section 11. Delivery of Ordinance. The City Clerk is directed to cause a certified copy of this ordinance to be delivered to the County Treasurer, the Board of County Commissioners, the Port's Port Commission, the Library District's Board of Trustees, the School District's Board of Director's, and the State of Washington Department of Revenue.

Section 12. Ratification. All actions heretofore taken in furtherance thereof and not inconsistent with the provisions of this ordinance are hereby ratified and confirmed in all respects.

Section 13. Validity. If any provision of this ordinance shall be declared by any court of competent jurisdiction to be invalid, then such provision shall be null and void and shall be separable from the remaining provisions of this ordinance and shall in no way affect the validity of the other provisions of this ordinance, of the LRF Bonds or of the use of Local Revitalization Financing to finance the Public Improvements and retire the LRF Bonds.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE, WASHINGTON, this 27th day of August, 2009.

CITY OF WENATCHEE, WASHINGTON


DENNIS JOHNSON, Mayor

Attest/Authentication:


BRENDA GUSKE, Interim City Clerk

Approved to form:


STEVE D. SMITH, City Attorney

Exhibit A
Geographic Boundaries of the Revitalization Area

Boundaries of Revitalization Area

A tract of land situated in the SE $\frac{1}{4}$ and NE $\frac{1}{4}$ Section 03, the NE $\frac{1}{4}$ Section 10, T.22N., R.20 E.W.M., and W1/2 Section 34, T.23N., R.20 E.W.M., said tract of land more particularly described as follows:

All that land bounded on the East by the Columbia River, bounded on the West by the B.N.S.F Railroad, bounded on the South by Thurston Street and bounded on the North by Ninth Street.

Together with all that land bounded on the East by the Columbia River, bounded on the West by Walla Walla Avenue, bounded on the South by Ninth Street, and bounded on the North by the north line of Block 9, according to the Plat of Smith Park, Page 39 of Plats, recorded in the Chelan County Auditor's Office.

Together with Lot 1 and Lot 4, Block 6 of said Smith Park Addition, Lot 1 and Lot 4, Block 7 of said Smith Park, and Lot 1 and Lot 4 of Block 8 of said Subdivision.

The above described tracts of land together contain 155.3 acres., more or less, as delineated on Exhibit "B" attached hereto and made a part hereof as Page 2 of this instrument.